

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

COMMIL USA, LLC,	§	
	§	
Plaintiff,	§	CIVIL ACTION NO. 2:07-cv-341
	§	
v.	§	
	§	
CISCO SYSTEMS, INC.,	§	
	§	
Defendant.	§	
	§	JURY TRIAL DEMANDED

**PLAINTIFF'S COMPLAINT FOR PATENT INFRINGEMENT
AND JURY DEMAND**

Plaintiff Commil USA, LLC ("Commil USA") files this Complaint for Patent Infringement against Defendant Cisco Systems, Inc. ("Cisco") and alleges as follows:

I. PARTIES

1. Commil USA is a limited liability company organized under the laws of the State of Texas. Commil USA maintains its principle place of business at 10655 Six River Drive, Suite 260, The Woodlands, Texas 73380.

2. Upon information and belief, Cisco Systems, Inc. ("Cisco") is, and at all relevant times mentioned herein was, a corporation organized and existing under the laws of the State of California with its principle place of business at 170 West Tasman Drive, San Jose, CA 95134. Cisco may be served with process through its registered agent for service of process, Corporation Service Company d/b/a CSC – Lawyers Incorporation Service, 701 Brazos Street, Suite 1050, Austin, TX 78701. Cisco manufactures and sells equipment for use in the wireless networking, voice over internet protocol and other technology areas.

II. JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 United States Code § 1, *et seq.* This Court has exclusive subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

4. Personal jurisdiction exists generally over Cisco because it has sufficient venue contacts with the forum as a result of business conducted within the State of Texas and within the Eastern District of Texas. Cisco, directly or through subsidiaries or intermediaries, offers for sale, sells, imports, advertises, and markets products and services within the Marshall Division of the Eastern District of Texas that infringe the patents-in-suits described more particularly below. Cisco has purposefully placed one or more of its infringing products into the stream of commerce with the expectation that they will reach consumers in the Eastern District of Texas. These infringing products have been, and continue to be, purchased by consumers in the Eastern District of Texas. Cisco has committed the tort of patent infringement within the state of Texas and, more particularly, within the Eastern District of Texas.

5. Venue is proper in the Eastern District of Texas under 28 U.S.C. §§ 1391(b) – (c) and 1400(b).

III. PATENT INFRINGEMENT

6. On August 6, 2002, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 6,430,395 (“’395 Patent”), entitled “Wireless Private Branch Exchange (WPBX) and Communicating Between Mobile Units and Base Stations.” Commil USA is the owner by assignment of all right, title and interest in and to the ‘395 Patent with the exclusive right to enforce the ‘395

Patent and to collect damages for its infringement. A copy of the '395 Patent is attached as Exhibit A. The '395 Patent is valid and enforceable.

7. Upon information and belief, Cisco manufactures, makes, uses, practices, provides, supplies, sells, imports, distributes and/or offers for sale products that infringe one or more claims of the '395 Patent. At no time has Cisco been licensed under any of Commil USA's Patents.

8. As a result of the foregoing acts, Cisco alleges, upon information and belief, that Cisco, in violation of 35 U.S.C. § 271 has been and is currently directly infringing, contributorily infringing and/or inducing infringement of the '395 Patent. Upon information and belief, Cisco's infringement of the '395 Patent has been and continues to be willful and deliberate.

9. Commil USA has been and continues to be harmed by Cisco's conduct and is therefore entitled to recover damages adequate to compensate for the infringement, (and, if necessary, related accountings), in an amount to be determined at trial, but in no event less than a reasonable royalty.

JURY DEMAND

10. Commil USA hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

Commil USA respectfully requests that the Court finds in its favor and grant it the following relief:

A. A Judgment that the '395 Patent is valid and enforceable;

B. A Judgment that Cisco has been and is currently infringing, contributorily infringing and/or inducing others to infringe one or more claims of the '395 Patent;

C. A Judgment and Order requiring Cisco to account for and pay to Commil USA damages adequate to compensate it for Cisco's infringement of Commil USA's Patents in an amount to be determined at trial, but in no event less than a reasonable royalty.

D. Damages to Commil USA in treble the amount of actual damages pursuant to 35 U.S.C. § 284 and 15 U.S.C. § 15(a) due to the willful and deliberate nature of Cisco's infringement.

E. An Order pursuant to 35 U.S.C. § 285, deeming this to be an "exceptional case" and thereby awarding to Commil USA its reasonable attorneys' fees, costs and expenses.

F. Judgment awarding Commil USA pre-judgment and post-judgment interest on the damages caused to it by reason of Cisco's infringing activities and other conduct alleged herein; and

G. Such other and further relief as the Court deems just and proper.

Respectfully submitted,

s/ Richard A. Sayles

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